

REMARKS

In the Office Action mailed March 30, 2007, the Examiner rejected claims 1-31.

Applicants believe that all pending claims are in condition for allowance and respectfully request reconsideration of the present application in view of the remarks set forth below.

Inconsistent Application of the Lee Reference

As a preliminary matter, the Examiner has inconsistently applied the teachings of the Lee reference. Specifically, in rejecting claim 15 the Examiner refers to the *dedicated device* 10 of the Lee reference as representing a transceiver unit, however, in rejecting claim 28 the Examiner refers to a *bi-directional antenna* as representing a transceiver unit. See Office Action, pages 2-3. Furthermore, in rejecting claim 1, the Examiner refers to *a base station, a tower, a structured transceiver and a building* as being a transceiver unit. *Id.* at page 3. Accordingly, the Examiner has applied the Lee reference in at least three different ways for each of the three independent claims with respect to the transceiver unit.

Additionally, another example of the Examiner's inconsistent application of the Lee reference is in regard to the base station. In rejecting claims 15 and 28, it appears that the Examiner is stating that the base station 22 is the equivalent of an access network unit, whereas in rejecting claim 1 it appears that the Examiner is citing the base station as being at least one transceiver unit.

Furthermore, yet another inconsistency is apparent in the rejection of claim 1, wherein the Examiner states, “Lee ... *does not explicitly disclose an access network unit adapted to communicated [sic] with the transceiver unit over the public network*, wherein both the access network unit and the transceiver unit are configured to be directly coupled to the undedicated public network.” Office Action, page 3. However, the Examiner rejected claims 15 and 28 under Lee asserting that the Lee reference does disclose an access network unit adapted to communicate with the transceiver unit over the public network.

Applicants respectfully assert that the inconsistent application of the cited arts precludes a fair examination of the claims in view of the cited art. Indeed, the inconsistent application of the Lee reference creates difficulty in formulating a response to the rejections, for a variety of reasons. For example, the inconsistent treatment of the cited art inherently results in the mischaracterization of the cited art. Moreover, such inconsistent treatment of the Lee reference is improper, as it is inconsistent with how one of ordinary skill in the art would understand and apply the reference. Indeed, one of ordinary skill in the art would apply the Lee reference consistently according to the teachings of the reference.

Accordingly, Applicants respectfully request that the Examiner apply the cited art consistently in future correspondence. Additionally, should the Examiner maintain the current rejections, Applicants respectfully request that the Examiner provide a non-final office action, clarifying and correcting at least the inconsistencies mentioned above, and provide Applicants with an additional three-month period to reply.

Rejections Under 35 U.S.C. § 102(e)

In the Office Action, the Examiner rejected claims 15, 22, 28 and 29 under 35 U.S.C. § 102(e) as being anticipated by Lee (U.S. Publication No. 2004/0008660, hereafter referred to as “the Lee reference”). Specifically, with regard to independent claim 15, the Examiner stated:

Regarding claims 15 and 22, Lee discloses a base station (access network unit) (fig. 1 number 22) for use with a wireless internet network communications system (fig. 1), the access network unit comprising a communication interface to facilitate communications between the access network unit (fig. 1 number 22) and at least one dedicated device (fig. 1 number 10) over an wireless internet network (undedicated public network) (fig. 1 number 20), wherein the dedicated device (transceiver unit) (fig. 1 number 10) is configured to be directly coupled to the undedicated public network (fig. 1 number 20 and P:0006 lines 1-5).

Office Action, page 2.

Applicants respectfully traverse this rejection. Anticipation under Section 102 can be found only if a single reference shows exactly what is claimed. *See Titanium Metals Corp. v. Banner*, 227 U.S.P.Q. 773 (Fed. Cir.1985). For a prior art reference to anticipate under Section 102, every element of the claimed invention must be identically shown in a single reference. *See In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir.1990). That is, the prior art reference must show the identical invention “in as complete detail as contained in the ... claim” to support a prima facie case of anticipation. *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989) (emphasis added). Thus, for anticipation, the cited reference must not only disclose all of the

recited features but must also disclose the part-to-part relationships between these features. See *Lindermann Maschinenfabrik GMBH v. American Hoist & Derrick*, 221 U.S.P.Q. 481, 486 (Fed. Cir.1984). A strict correspondence between the claimed language and the cited reference must be established for a valid anticipation rejection. Accordingly, the Applicants need only point to a single element or claimed relationship not found in the cited reference to demonstrate that the cited reference fails to anticipate the claimed subject matter.

Moreover, the Applicants submit that, during patent examination, the pending claims must be given an interpretation that is reasonable and consistent with the specification. See *In re Prater*, 162 U.S.P.Q. 541, 550-51 (C.C.P.A. 1969); *In re Morris*, 44 U.S.P.Q.2d 1023, 1027-28 (Fed. Cir. 1997); see also M.P.E.P. § 2111 (describing the standards for claim interpretation during prosecution). Indeed, the specification is “the primary basis for construing the claims.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1315 (Fed. Cir. 2005). It is usually dispositive. See *id.* Interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. See *In re Cortright*, 49 U.S.P.Q.2d 1464, 1468 (Fed. Cir. 1999); see also M.P.E.P. § 2111. That is, recitations of a claim must be read as they would be interpreted by those of ordinary skill in the art. See *Rexnord Corp. v. Laliram Corp.*, 60 U.S.P.Q.2d 1851, 1854 (Fed. Cir. 2001); see also M.P.E.P. § 2111.01. In summary, an Examiner, during prosecution, must interpret a claim recitation as one of ordinary skill in the art would reasonably interpret the claim in view of the specification. See *In re American Academy of Science Tech Center*, 70 U.S.P.Q.2d 1827 (Fed. Cir. 2004).

The Lee Reference Fails to Disclose All the Limitations of Independent Claim 15

Independent claim 15 recites, *inter alia*, “An access network unit ... comprising: a communication interface to facilitate *communication between the access network unit and at least one transceiver unit over an undedicated public network*, wherein the transceiver unit is configured to be directly coupled to the undedicated public network.” (Emphasis added). The instant application describes the access network unit 12 as including an access network controller 18 and a transceiver server 20 to provide connectivity to transceiver units. Application, page 9, lines 2-3 and 15-17; page 13, lines 12-20. The access network controller 18 provides call processing and control functions for the access network unit 12 and the transceiver server 20 provides the server functionality to identify the correct transceiver unit 14 and to provide connectivity to various distributed transceiver units via the public network 16. *Id.* at lines 3-7 and 15-17. The transceiver units 14 and the transceiver server 20 have the capability to meet the connectivity requirements to route information via the public network. *Id.* at lines 7-9. Additionally, the transceiver units 14 may communicate voice and/or data with any suitable communications device, such as portable cellular telephones, navigations systems, computer systems and satellite systems. *Id.* at lines 21-24.

In sharp contrast, as characterized by the Examiner, the Lee reference does not disclose communication between an access network unit and a transceiver over an undedicated public network, wherein the transceiver unit is configured to be directly coupled to the undedicated

public network, as recited in claim 15. The Lee reference is directed to automating a system which uses a dedicated device 10 to receive GPS locations for both indoor and outdoor areas. *See Lee*, abstract; paragraphs 5 and 6. As such, most of the Lee reference is directed to the dedicated device 10 and a modem 14 which connects to the dedicated device 10 to allow for indoor GPS capabilities. *See Lee*, paragraph 14, Fig. 1. The modem 14 allows the dedicated device 10 to communicate with a wireless base station 22. *Id.* The wireless base station 22 is configured to communicate with a designated remote server 12 via a wireless Internet network 20. *Id.*

In rejecting claim 15, the Examiner has characterized the dedicated device 10 as a transceiver unit and the base station 22 as an access network unit. As set forth in the Lee reference, communication between the base station 22 and the dedicated device 10 is via a direct wireless link. *See Lee*, Fig. 1. As such, according to the characterization of the Lee reference given by the Examiner, there is no communication between a transceiver unit (dedicated device 10) and an access network unit (base station 22) over an undedicated public network. Accordingly, for at least this reason, Applicants respectfully assert the Lee reference cannot support a *prima facie* case for anticipation under Section 102 of claim 15. Therefore, Applicants respectfully request withdrawal of the rejection and allowance of claim 15, as well as all claims depending thereon.

Moreover, Applicants respectfully assert that the Lee reference does not disclose anything that can reasonably be considered an access control unit, much less communication between an

access control unit and a transceiver unit over an undedicated public network. Specifically, as mentioned above, the access network unit includes a access network controller 18 and a transceiver server 20 and is able to process and route communications using the public network as the distribution media. The access network controller 18 may, for example, help provide a secure connection by providing security information or negotiate quality of service for the connection to the transceiver server 20. *See* application, page 12, lines 1-17. The transceiver server 20 may assign and/or maintain IP addresses of the various transceiver units, or map IP addresses to a particular technology supported by the transceiver units, for example. *Id.* Thus, the access network unit may provide connectivity and information via a public network to distributed transceiver units.

In contrast, the Lee reference discloses only the base station communicating via a wireless Internet network with a designated remote server 12 or a separate A-GPS server 16, neither of which perform the functions of an access network unit. The designated remote server 12, for example, provides configuration parameters pertinent to the dedicated device's ID and, apparently, stores a user's GPS location and data. *See* Lee, paragraphs 23 and 26. The A-GPS server simply provides A-GPS information to the dedicated device. *See* Lee, paragraph 17. As such, neither the designated remote server 12, nor the A-GPS server can reasonably be considered to be the same or equivalent to the access network unit of the instant application.

Furthermore, as mentioned in a previously filed response to office action, Applicants assert that the Lee reference does not disclose a distributed system. Specifically, the base station

of the Lee reference includes a transceiver unit and a mobile switching center or base station controller. As such, the Lee reference does not disclose a communication between a transceiver and an access network unit over an undedicated public network. Rather, the Lee reference discloses communication between a transceiver and a mobile switching network center via a dedicated means internal to the base station.

As such, for these additional reasons, Applicants respectfully assert that the Lee reference does not disclose all the elements of independent claim 15 and, therefore, cannot support a *prima facie* case for anticipation under Section 102. Accordingly, applicants respectfully request withdrawal of the Section 102 rejection and allowance of claim 15, as well as all claims depending thereon.

The Lee Reference Fails to Disclose All the Claim Limitations of Independent Claims 28

In rejecting claim 28, the Examiner stated:

Regarding claims 28 and 29, Lee discloses a method (fig. 3a) of communicating in a wireless communications system (fig. 1), the method comprising the act of: communicating information over a wireless internet network (undedicated public network) between at least one bi-directional antenna (transceiver unit) which is adapted to communicate over an air interface with portable communications devices (fig. 3a), and a base station (access unit) which is adapted to process information (retrieve GPS information) (p:0017 lines 1-8), wherein the bi directional antenna (transceiver unit) is directly coupled to the wireless internet network (fig. 1 number 20).

Office Action, pages 2-3. Applicants respectfully traverse the rejection.

Claim 28 recites, *inter alia*, “A method of communicating in a wireless communications system, the method comprising the act of: *communicating information over an undedicated public network between at least one transceiver unit...and an access network unit...* wherein the transceiver unit is directly coupled to the undedicated public network.” (Emphasis added). As set forth above, the access network unit includes an access network controller and a transceiver server. *See* application, page 9, lines 2-10. The transceiver server allows the access network unit to communicate over an undedicated public network with distributed transceivers.

In sharp contrast, the Lee reference, as characterized by the Examiner, does not disclose communicating information over an undedicated public network between at least one transceiver unit and an access network unit. As discussed above, the Lee reference is directed to a dedicated device for indoor and outdoor GPS location determination. *See* Lee, abstract. In rejecting claim 28, the Examiner characterized a bi-directional antenna as representing a transceiver unit and the base station 22 as being an access network unit. For the sake of consistency, Applicants assume the Examiner is referring to the cellular PCS Band antenna 15 of the modem 14 when referring to the bi-directional antenna. As discussed above, the communication between the modem 14 (bi-directional antenna) and the base station 22 is via wireless channel which cannot reasonably be considered an undedicated public network. As such, for at least this reason, Applicants respectfully request withdrawal of the Section 103 rejection and allowance of claim 28, as well as all claims depending therefrom.

Additionally, as set forth above, Applicants respectfully assert that the Lee reference does not disclose anything that can reasonably be considered an access control unit, much less communication between an access control unit and a transceiver unit over an undedicated public network. Specifically, as mentioned above, the access network unit may provide connectivity and information via a public network to distributed transceiver units using an access network controller 18 and a transceiver server 20. In contrast, the Lee reference discloses only the base station communicating via a wireless Internet network with a designated remote server 12 or a separate A-GPS server 16, neither of which provide connectivity between a transceivers of a distributed network. *See* Lee, paragraphs 17, 23 and 26. As such, neither the designated remote server 12, nor the A-GPS server can reasonably be considered to be the same or equivalent to the access network unit of the instant application.

Furthermore, the Lee reference does not disclose a distributed system. Specifically, Applicants assert that the base station of the Lee reference includes a transceiver unit and a mobile switching center or base station controller. As such, the Lee reference does not disclose a communication between a transceiver and an access network unit over an undedicated public network. Rather, the Lee reference discloses communication between a transceiver and a mobile switching network center via a dedicated means internal to the base station.

As such, for these additional reasons, Applicants respectfully assert that the Lee reference does not disclose all the elements of independent claim 28 and, therefore, cannot support a *prima facie* case for anticipation under Section 102. Accordingly, applicants

respectfully request withdrawal of the Section 102 rejection and allowance of claim 28, as well as all claims depending thereon.

Rejections Under 35 U.S.C. § 103(a)

In the Office Action, the Examiner rejected claims 1-8, 10-12, 23-27, 30 and 31 under 35 U.S.C. § 103(a) as being unpatentable over the Lee reference in view of Cho (U.S. Pub. No. 2002/0198977, hereafter “the Cho reference”); rejected claim 9 under 35 U.S.C. § 103(a) as being unpatentable over the Lee reference in view of the Cho in further view of Yuhara et al. (U.S. Pub. No. 2004/0192189, hereafter “the Yuhara reference”); and rejected claims 16-21 under 35 U.S.C. § 103(a) as being unpatentable over the Lee reference in view of Aoki (U.S. Patent No. 7,024,192, hereafter referred to as “the Aoki reference”). Applicants respectfully traverse the rejections.

The Lee and Cho References Fail to Disclose All the Elements of Independent Claim 1

As stated above, the Examiner rejected claims 1-8 and 10-12 as being unpatentable over the Lee reference in view of the Cho reference. Specifically, the Examiner stated:

Regarding claims 1-8, 10-12, Lee discloses a wireless communications system (fig.1) comprising at least one transceiver unit (base station) (tower) (structured transceiver) (building) (fig. 1 number 22) adapted to communicate over an air interface with a dedicated device (devices mobile station) (portable device) (cellular telephone) (fig. 1 number 10) and adapted to communicate over an undedicated public network (internet network) (service network) (fig. 1 number 20). Lee differs from claim 1 of the present invention in that it does not explicitly disclose an access network unit adapted to communicate with the transceiver unit over the public network, wherein both the access network unit and transceiver unit are configured to be directly

coupled to the undedicated public network. Cho teaches a base station controller (access network unit fig. 1a number 91) adapted to communicate with a base station (fig. 1 number 90) and directly connected with the internet. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify lee with an access network unit adapted to communicated with the transceiver unit over the public network, wherein both the access network unit and the transceiver unit are configured to be directly coupled to the undedicated public network in order fro the system to control the location information flow between the dedicated device and the GPS location server when requesting indoor GPS location information through the internet, as taught by Cho.

Office Action, pages 3 and 4.

Applicants respectfully traverse the rejection. The burden of establishing a *prima facie* case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (B.P.A.I. 1979). To establish *prima facie* obviousness of a claimed invention, *all* the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (B.P.A.I. 1979).). In addressing obviousness determinations under 35 U.S.C. § 103, the Supreme Court in *KSR International Co. v. Teleflex Inc.*, No. 04-1350, 550 U.S. ____ (2007), reaffirmed many of its precedents relating to obviousness including its holding in *Graham v. John Deere Co.*, 383 U.S. 1 (1966). In *KSR*, the Court also reaffirmed that “a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art.” *Id.* at 14. In this regard, the *KSR* court stated that “it can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does ... because inventions in most, if not all,

instances rely upon building blocks long since uncovered, and claimed discoveries almost of necessity will be combinations of what, in some sense, is already known.” *Id.* at 14-15. As such, the *KSR* court did not diminish the requirement for objective evidence of obviousness. *Id.* at 14 (“To facilitate review, this analysis should be made explicit. *See In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006) (“[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness”).

Independent claim 1 recites, *inter alia*, “A wireless communications system comprising: at least one transceiver unit...adapted to communicate over an undedicated public network; and an access network unit adapted to *communicate with the at least one transceiver unit over the public network*. (Emphasis added).

In sharp contrast, the Lee reference and the Cho reference, taken alone or in combination, do *not* disclose an access network unit, much less an access network unit adapted to communicate with a transceiver unit over the public network, as set forth in claim 1. As discussed above, the Lee reference is directed to automating a system which uses a dedicated device 10 to receive GPS locations. *See Lee*, Abstract. The dedicated device 10 communicates with a designated remote server 12 over a wireless network 20. *See Lee*, paragraph 14, Fig. 1. However, the only communication over the wireless network 20 is between the base station 22 and the designated remote server 12 or the separate A-GPS server 16. As discussed above, neither the designated remote server 12 nor the separate A-GPS server 16 can reasonably be

considered an access network unit because neither provide connectivity to transceiver units. Therefore, there is no access network unit disclosed by the Lee reference, much less an access network unit adapted to communicate with a transceiver unit over the public network, as set forth in claim 1, disclosed by the Lee reference.

The Cho reference fails to obviate the deficiencies of the Lee reference in this regard. Specifically, the Cho reference is directed to an internet network connection and roaming system. *See* Cho, Abstract. Fig. 1A of the Cho reference illustrates the system. *Id.* at Fig. 1A; paragraphs 14 and 43. As can be seen, a terminal 10 is configured to wirelessly communicate with antennas 31-33 of access points 21 and 22 and a base transceiver station (BTS) 90. *Id.* at Fig. 1A; paragraph 44. It is through the BTS 90 or the access points 21, 22 that the terminal is able to access the Internet 50. The BTS 90 is coupled to a base station controller (BSC) 91. However there is no indication that the BTS 90 and the BSC 91 communicate over a public network. As such, there is no access network unit adapted to communicate with a transceiver unit over the public network disclosed by the Cho reference.

Accordingly, Applicants respectfully assert that the Lee reference and the Cho reference, taken alone or in hypothetical combination, do not disclose all the features of independent claim 1. Accordingly, Applicants respectfully request withdrawal of the rejection under Section 103 and allowance of claim 1, as well as all claims depending therefrom.

The Cho Reference Fails to Obviate Deficiencies of the Lee Reference with Respect to Independent Claims 15 and 28

As stated above, the Examiner also rejected claims 23-27, 30 and 31 under Section 103 as being unpatentable over the Lee reference in view of the Cho reference. With respect to claims 23-27, 30 and 31, Applicants respectfully assert that in view of the foregoing discussion, the Cho reference fails to obviate deficiencies of the Lee reference with respect to independent claims 15 and 28. Specifically, the Cho reference does not disclose communication *between a transceiver unit and an access network unit over an undedicated public network*, as set forth in claims 15 and 28. As such, the Lee and Cho references, taken alone or in combination, fail to disclose all the elements of independent claims 1 and 15. Therefore, Applicants respectfully assert that claims 23-27, 30 and 31 are allowable based on their respective dependencies from claims 15 and 28. Accordingly, Applicants respectfully request withdrawal of the Section 103 rejection and allowance of claims 23-27, 30 and 31.

The Yuhara Reference Fails to Obviate Deficiencies of the Lee and Cho References

The Examiner rejected claim 9 as being unpatentable over Lee in view of Cho as applied to claims 1 and 7 in further view of the Yuhara reference. As set forth above, the Lee reference and the Cho reference, taken alone or in combination, fail to disclose all the elements of claim 1. Specifically, as discussed in detail above, the Lee and Cho references do not disclose an access network unit adapted to communicate with a transceiver unit over the public network. The Yuhara reference fails to obviate the deficiencies of the Lee and Cho reference.

The Yuhara reference is directed to a system for receiving data from a satellite radio network. *See* Yuhara, abstract. However, there is no disclosure in the Yuhara reference regarding an access network unit adapted to communicate with a transceiver unit over the public network, as set forth in claim 1. Accordingly, the Lee reference, the Cho reference and the Yuhara reference, taken alone or in combination, fail to disclose all the elements of claim 1.

Accordingly, Applicants respectfully assert that claim 1 is allowable over the Lee, Cho and Yuhara reference and, further, that claim 9 is allowable based on its dependency from claim 1. Applicants, therefore, respectfully request withdrawal of the Section 103 rejection of claim 9 and allowance of claim 9.

The Chang Reference Fails to Obviate Deficiencies of the Lee and Cho References

As mentioned above, claims 13 and 14 were rejected by the Examiner as being unpatentable under Section 103 over the Lee reference in view of the Cho reference as applied to claims 1 and 12 and in further view of the Chang reference. Applicants respectfully traverse the rejection. As set forth above, the Lee reference and the Cho reference, taken alone or in combination, fail to disclose all the elements of claim 1. Specifically, as discussed in detail above, the Lee and Cho references do not disclose an access network unit adapted to communicate with a transceiver unit over the public network. The Chang reference fails to obviate the deficiencies of the Lee and Cho reference with respect to claim 1.

The Chang reference is directed to a system for providing seamless mobile IP connectivity between mobile stations (MS) connected to a PCS network via base stations (BS) connected to base station switching centers (BSCs). *See* Chang, abstract. The Chang reference, however, does not disclose an access network unit adapted to communicate with a transceiver unit over the public network, as set forth in claim 1. Accordingly, the Lee, Cho and Chang references, taken alone or in hypothetical combination, fail to disclose all the elements of claim 1.

Accordingly, Applicants respectfully assert that claim 1 is allowable over the Lee, Cho and Chang references and, further, claims 13 and 14 are allowable based on their dependency from claim 1. Applicants, therefore, respectfully request withdrawal of the rejection under Section 103 of claims 13 and 14, as well as allowance of claims 13 and 14.

The Aoki Reference Fails to Obviate the Deficiencies of the Lee Reference

As mentioned above, claims 16-21 were rejected by the Examiner as being unpatentable over the Lee in view of Aoki. Applicants respectfully traverse the rejection.

As set forth above, the Lee reference fails to disclose communication between the access network unit and at least one transceiver unit over an undedicated public network, as recited in claim 15. The Aoki reference fails to obviate the deficiencies of the Lee reference. The Aoki reference is directed to a system that provides current location information services in a network. *See* Aoki, abstract. The Aoki system uses user profiles and location identifiers to determine current location information. *Id.* at col. 2, lines 16-25. However, the Aoki reference does not

disclose communication between the access network unit and at least one transceiver unit over an undedicated public network. As such, the Lee reference and the Akoi reference, taken alone or in hypothetical combination, do not disclose all the elements of claim 15.

Accordingly, Applicant respectfully assert that claim 15 is allowable over the Lee reference and the Akoi reference and, furthermore, that claims 16-21 are allowable based on their dependency from claim 15. As such, Applicants respectfully request withdrawal of the rejection of claims 16-21 under Section 103.

Conclusion

In view of the remarks and amendments set forth above, Applicants respectfully request allowance of the pending claims 1-31. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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